THE HON'BLE SMT JUSTICE T. MEENA KUMARI

And

THE HON'BLE SRI JUSTICE P LAKSHMANA REDDY

WRIT PETITION No. 19830 OF 2005

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Dated: 21-09-2005

Between

1. Union of India, Ministry of Defence,

   Rep. by its Secretary, New Delhi

   And three others. ..Petitioners

   And

   Uzhudan Purushothamana ..Respondent

THE HONOURABLE SMT JUSTICE T. MEENA KUMARI

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WRIT PETITION No. 19830 OF 2005

ORDER (per the Hon'ble Smt Justice T Meena Kumari)**:**

01. Questioning the order dated 7.2.2005 in O.A.no.1501 of 2003 on the file of central Administrative Tribunal, Hyderabad, the present writ petition has been preferred by the petitioners.

02. The facts lies in a narrow compass are as follows:

The respondent joined as Skilled personnel on contract basis in May 1968 by the

Garrison Engineer (E/M) (P), Port Blair and his contractual service was extended from time to time for about 14 years. Later in pursuance of the impugned letter dated 8t h July 1977 of the first petitioner, along with himself, other similarly situated employees were absorbed into regular establishment of Military Engineering Service and he retired from service as FGM Grade – I on 31-1-2003. It is his further case that when they filed W.P. No.3850 of 1978, by the order dated 3-3-1980 this Court directed the respondents therein to treat him and alike other employees as surplus and absorb them in regular vacancies in Defence Establishment with all service benefits including seniority and pay etc.

03. It is also stated that in view of the clarification made by the first respondent vide his letter dated 8.7.1977 that these personnel will be entitled to the benefit of past continuous service rendered by them in the task force for the purpose of pay etc., he is entitled to the same benefits and that as he was a surplus employee worked on contractual basis as task force personnel under Garrison Engineer his case is covered by the letter dated 8.7.1988 for the purpose of availing the benefit of past continuous service. It is also stated that when the respondent along with others filed WP No.2851/1985, which was later on transferred to the Tribunal as TA No. 1147/86, questioning the letter dated 29.8.1983 of the appellants to the extent of not counting the past service prior to the issue of the above letter for the purpose of seniority, confirmation and promotion, the Tribunal thorough its order dated 7.8.91 upheld the letter dt.29.8. 1983. It is his case that as the order of this Court in WP No. 3850/1978 reached finality the petitioners cannot ignore the same while settling his pensionary benefits. It is further stated that he made a representation in October 2002 to the 4th petitioner requesting to add the task force service w.e.f. May 1968 but the same was not favoured with any reply and that he attained superannuation on 31.03.2003. He also referred to a letter dt. 8-12-1983 of the first petitioner wherein it was mentioned that the President of India has decided that the personnel for the erstwhile task force establishment under the Chief Engineer, Port Blair who were in service during the period from 5th January, 1967 to 5th April, 1978 in the event of their appointment to substantive capacity is pensionable post in the defence establishment without interruption of duty shall be entitled to count their contract service from 5.1.1967 to 5.4.1978 for pensionary benefits under the provisions of Rule of CCs (Pension) Rules, 1972.

04. The above contention of the respondent herein was contested by the petitioners

herein through a counter stating that the request of the applicant to count his service rendered in Task Force from May, 1968 to 4.11.1972 was rejected mainly on the ground that there is no entry in his service book regarding the applicant's contract service in Port Blair (Andaman) as claimed by him and that there is no Government order or sanction regarding counting of service of civilian personnel in the Task Force Establishment at Visahkapatnam.

05. The Tribunal after considering the rival contentions allowed the O.A directing the respondents therein to count the service rendered by the applicant in Task Force Service in Port Blair between ay, 1968 and 4.11.1972 for the purpose of financial and pensionary benefits as per rules/instruction and ordered that the applicant shall be paid the benefit within two months from the date of communication of its order. Aggrieved by the said directions, the respondents therein have preferred the present writ petition.

06. We have heard the learned Counsel appearing on behalf of the petitioners. A perusal of the impugned award goes to show that the petitioners herein had failed to produce any record before the Tribunal, and that the certificate produced by the applicant-respondent dated 31.7.1972 issued by the Garrison Engineer E/M (P) certifying that the applicant was working in the workshop since May, 68 was not denied by the petitioners herein. Thus, the Tribunal had believed the same. Further the Tribunal had observed that the O.A was filed only for the purpose of adding the task Force service rendered by the applicant from May, 1968 to 4.11.1972 for the purpose of financial and pensionary benefits, but the contention of the respondents in the letter dt.29.8.83 upheld by the Tribunal in its order dated 7.8.1991 is on different footing from that of the claim made in the above O.A. In view of the above observations and also in view of the fact that the certificate issued by the Garrison Engineers E/M (P), dated 31st July 1972 remain undisputed, we do not find any reason to interfere with the impugned award of the Tribunal.

07. Accordingly, the writ petition is dismissed. No costs.

T. MEENA KUMARI, J

P. LAKSHMANA REDDY, J

Dt. 21.09.2005

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WRIT PETITION No. 19830 OF 2005

(per the Hon'ble Smt Justice T Meena Kumari)**:**

21st September 2005